wholly in private and by individuals, the argument as to the untrustworthy nature of parol evidence fails. Again, there are not the safeguards against fraud and mistake which the very number of the legislature affords, while the chances of mishandling are greatly increased. Hence it is submitted that the public policy in favor of stability is overborne by the desirability of making it possible to remedy a negligent or fraudulent thwarting of the legislative will by individuals beyond the supervision of that body. Still the weight of authority supports the principal case. *Weeks* v. *Smith*, 81 Me. 538, 18 Atl. 325. See *People* v. *McCullough*, 210 Ill. 488, 510, 71 N. E. 602, 609.

EVIDENCE — TESTIMONY GIVEN AT FORMER TRIAL — ADMISSIBILITY AFTER MARRIAGE OF WITNESS WITH DEFENDANT. — In a trial for manslaughter, the former testimony of a woman who since the first trial had been disqualified by marriage with the defendant, was excluded. *Held*, that the exclusion was correct. *Langham* v. *State*, 68 So. 504 (Ala.)

As a general rule, former testimony is admissible as an exception to the Hearsay Rule when it has become unfeasibl e to secure the presence in court of the witness. *People* v. *Elliott*, 172 N. Y. 146, 64 N. E. 837; *State* v. *Wheat*, 111 La. 860, 35 So. 955; *United States* v. *Reynolds*, 1 Utah 319, 98 U. S. 145. The principle of this exception would make former testimony admissible in all cases where the witness, although capable of attendance in court, has been rendered incompetent, unless the incompetence were of such a nature as to cast suspicion upon the former testimony, *e. g.*, conviction for an infamous crime. See 2 WIGMORE, EVIDENCE, § 1402. *Cf. Le Baron* v. *Crombie*, 14 Mass. 233. As yet, the principle has only been applied when the incompetence is for interest or mental incapacity. *Wafer* v. *Hemken*, 9 Rob. (La.) 203. See *Walkup* v. *Commonwealth*, 14 Ky. L. R. 337, 338, 20 S. W. 221, 222. See 2 WIGMORE, EVIDENCE, §§ 1408, 1409. *Cf. Gold* v. *Eddy*, 1 Mass. 1. Nevertheless, where the absence or incompetence has been caused by the proponent, the former testimony should be excluded on account of the danger of allowing the proponent to substitute it for direct evidence. When, however, the act of the proponent is as free from the suspicion of ulterior motives as marriage, this danger seems negligible and an inadequate ground for refusing the former testimony.

INJUNCTION — ACTS ENJOINED — INTEREST OF PERSONALITY CREATED BY STATUTE — EXCLUSIVENESS OF STATUTORY REMEDY. — Plaintiff, a dramatic critic in New York City, was excluded from defendant's theaters, and threatened with future exclusion, on the ground of unfair criticism. A New York statute provides that all persons are entitled to equal accommodations in theaters and other places of amusement, and makes discrimination by theater managers a misdemeanor, further providing that a party aggrieved may have a civil action to recover a penalty. Plaintiff asked that defendant be enjoined from violating this statute. *Held*, that an injunction will not be granted. *Woollcott* v. *Shubert*, 154 N. Y. Supp. 643.

For a discussion of this case, see NOTES, p. 93.

INSURANCE — RE-INSURANCE — LIABILITY OF RE-INSURER WHEN INSURER COMPROMISES. — The plaintiff, the insurer of a ship, re-insured the risk with the defendant. After loss, the plaintiff compromised with the shipowner for less than the insured value of the ship. He now sues the defendant for the full amount of the re-insurance policy. *Held*, that he can recover only the actual amount paid by him to the insured. *British, etc. Ins. Co.* v. *Duder*, 31 T. L. R. 361.

It is generally held that the re-insured can recover before any payment has been made to the insured, and that then subsequent events cannot alter his liability. *Hone* v. *Mutual, etc. Ins. Co.*, 1 Sandf. (N. Y.) 137. In the light of this, courts have generally said that re-insurance is indemnity against the